

UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	Art Unit: Not Yet Known
Svend LINDENBERG)	Examiner: Not Yet Known
Serial No.: 10/518,055)	Washington, D.C.
Filed: December 16, 2004)	March 24, 2005
For: IN VITRO FERTILISATION)	Docket No.: LINDENBERG=3
)	Confirmation No.:

INFORMATION DISCLOSURE STATEMENT [IDS]

U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

S i r :

This Information Disclosure Statement is submitted in accordance with 37 C.F.R. 1.97, 1.98, and it is requested that the information set forth in this statement and in the listed documents be considered during the pendency of the above-identified application, and any other application relying on the filing date of the above-identified application or cross-referencing it as a related application.

1. This IDS should be considered, in accordance with 37 C.F.R. 1.97, as it is filed:

☐ A. within three months of the filing date of the above-identified national application or within three months of the entry into the national stage of the above-identified international application. See 37 CFR 1.97(b)(1) and (3).

☒ B. before the mailing date of a first office action on the merits. See 37 CFR 1.97(b).

[] C. after (A) and (B) above, but before final rejection or allowance, and Applicants have made the necessary certification (box "i" below) or paid the necessary fee (box "ii" below). See 37 CFR 1.97(c)(2).

[] i. Counsel certifies that, upon information and belief, each item of information listed herein was either (a) cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS or (b) was not cited in a communication from a foreign patent office in a counterpart foreign application and was not known to any individual designated in 1.56(c) more than three months prior to the filing of this IDS.

[] ii. Credit Card Payment Form, PTO-2038, authorizing payment for the fee set forth in 1.17(p), presently believed to be \$180, is attached.

[] D. after (A), (B) and (C) above, but before payment of the issue fee. Applicant petitions under 37 C.F.R. 1.97(d) for consideration of this IDS. A Credit Card Payment Form, PTO-2038, authorizing payment for the fee set forth in 1.17(p)(1), presently believed to be \$180 is attached. Counsel certifies that, upon information and belief, each item of information listed herein was either (i) cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS or (ii) was not cited in a communication from a foreign patent office in a counterpart foreign application and was not known to any individual designated in 1.56(c) more than three months prior to the filing of this IDS.

[] E. As a submission in accordance with the transitional procedure for limited examination after final rejection pursuant to 37 CFR §1.129(a). Pursuant to MPEP §706.07(g), page 700-66,

col. 2 (August 2001), this IDS is treated as if filed with a period set forth in 37 CFR §1.97(b) and considered without the petition and petition fee required by 1.97(d).

[] F. As a submission with or after a request for continued examination under CFR §1.114, and before the mailing of a first office action on the RCE. See 37 CFR §1.97(b)(4).

2. In accordance with 37 C.F.R. 1.98, this IDS includes a list (e.g., form PTO-1449) of all patents, publications, or other information submitted for consideration by the office, either incorporated into this IDS or as an attachment hereto. A copy of each document is attached, except as explained below.

[] While an IDS filed under §1.97 must contain a "list of all patents, publications or other information submitted for consideration by the Office", see §1.98(a) (1), the only requirement for the list is that it provide the information set forth in §1.98(b). There is no requirement that a form PTO-1449 be used (MPEP §609 merely says that use of this form is "encouraged"). Counsel has used a list provided to him by Applicants, and not transferred the information to a PTO-1449, to avoid the risk of any inadvertent error in transferring the information.

[X] A. Documents AA-AL are U.S. Patents or U.S. Patent Publications, and hence copies of these documents have not been provided. See 37 CFR 1.98(a)(2)(ii).

[] B. Documents _____ are deemed substantially cumulative to documents _____, and, in accordance with 1.98(c), only a copy of each of the latter documents is enclosed.

[] C. Certain documents were previously cited by or submitted to the Office in the following prior application(s), which are relied upon under 35 U.S.C. 120:

[insert serial number/filing date]

Applicants identify these documents by attaching hereto copies of the form PTO-892s and PTO-1449s from the files of the prior applications or a fresh PTO-1449 listing these documents, and

request that they be considered and made of record in accordance with 1.98(d). Per 37 CFR 1.98(d), copies of these documents need not be filed in this application. If copies of any of these documents cannot be found in the files of the prior applications, the Examiner is requested to so notify counsel before taking action in this case, so replacement copies can be submitted. While an IDS filed under §1.97 must contain a "list of all patents, publications or other information submitted for consideration by the Office", see §1.98(a) (1), the only requirement for the list is that it provide the information set forth in §1.98(b). There is no requirement that a form PTO-1449 be used (MPEP §609 merely says that use of this form is "encouraged") and no prohibition on submitting a copy of a form PTO-1449 or form PTO-892 from a prior case. Indeed, the re-use of such forms is desirable as it avoids error in transferring the information, and evidences that the reference was considered in a prior application. A previously accepted PTO-1449, or an examiner-prepared PTO-892, necessarily complies with §1.98(b).

[X] 3. Documents AQ and AS are not in the English language. In accordance with 1.98(a)(3), Applicants state:

[] documents _____ already contain an English language abstract, summary or claim set.

[X] a publicly available abstract of documents AQ and AS is enclosed, and the source of each abstract is indicated thereon.

[] documents ____ are patents or published patent applications for which counterpart English language patents or patent applications exist, and are enclosed, as follows:

<u>Foreign Lang. Doc.#</u>	<u>English Lang. Doc.#</u>
[insert]	[insert]

[] applicants have prepared an English translation of at least the pertinent portions of documents _____, and copies are attached.

[] A concise explanation of the relevance of documents _____ is found in the attached search report from the _____ Patent Office (see reply to Comment 68 in the preamble to the final rules; 1135 OG 13 at 20).

[] A concise explanation of the relevance of documents _____ appears in the present specification.

[] A concise explanation of the relevance of documents _____ is set forth as follows:

[Insert concise explanation of relevance]

4. No explanation of relevance is necessary for documents in the English language (see reply to Comments 67 and 68 in the preamble to the final rules; 1135 OG 13 at 20).

5. If the month of publication of a nonpatent reference is not stated, it is because it is not apparent from review of the reference. If requested to do so by the Examiner, Applicants will attempt to locate and write to the publisher.

If the publication date of a cited document is set forth only as a publication year, and that year is prior to the year of filing or, if priority is claimed, year of priority of this application, then the particular month of publication is not in issue. Likewise if that publication year is after the year of filing of this application, the month of publication is not in issue.

If the date of publication of a nonpatent reference is stated, then, except as explained below, it is the nominal date stated in the reference, or in a larger document (journal or book) from which the reference was extracted. Applicants reserve the right to challenge this date by contacting the publisher to determine the actual shipment date, or by contacting recipients to determine the receipt dates.

6. Other information being provided for the examiner's consideration follows:

[insert other information]


7. In accordance with 37 C.F.R. 1.97(g) and (h), the filing of this IDS should not be construed as a representation that a search has been made or that information cited is, or is considered to be, material to patentability as defined in §1.56 (b), or that any cited document listed or attached is (or constitutes) prior art. Unless otherwise indicated, the date of publication indicated for an item is taken from the face of the item and Applicant reserves the right to prove that the date of publication is in fact different.

8. The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this paper or credit any overpayment to Deposit Account No. 02-4035.

Respectfully submitted,

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Substitute for form 1449A/PTO

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(use as many sheets as necessary)

Sheet 1 of 2

Complete if Known

Application Number	10/518,055
Filing Date	December 16, 2004
First Named Inventor	Svend LINDENBERG
Group Art Unit	Not Yet Known
Examiner Name	Not Yet Known
Attorney Docket Number	LINDENBERG=3

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (if known)			
	AA	US-2001/0049829	12-06-2001	Paul Alexandre DeSOUSA et. al.	
	AB	US-2001/0028878	10-11-2001	Svend LINDENBERG	
	AC	US-6,184,035	02-06-2001	Marie CSETE et. al.	
	AD	US-6,140,121	10-31-2000	Joanna E. ELLINGTON et. al.	
	AE	US-6,110,741	08-29-2000	John P. HEARN et. al.	
	AF	US-6,050,935	04-18-2000	Claude RANOUX et. al.	
	AG	US-5,882,928	03-16-1999	Ruth Miriam MOSES	
	AH	US-5,837,543	11-17-1998	B. A. CONWAY-MYERS et. al.	
	AI	US-5,730,777	03-24-1998	Peter Mosborg PETERSEN et. al.	
	AJ	US-5,219,215	06-15-1993	Minoru AKAGAWA et. al.	
	AK	US-4,892,830	01-09-1990	William FINDLEY et. al.	
	AL	US-4,262,091	04-14-1981	Marion E. COX et. al.	
		US-			
		US-			
		US-			
		US-			
		US-			

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Foreign Patent Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
		Country Code ³ Number ⁴ Kind Code ⁵ (if known)				
	AM	WO 01/94552 A2	12-13-2001	D. K. GARDNER et. al.		
	AN	WO 01/64845 A1	09-07-2001	K. A. REDl et. al.		
	AO	EP 1 018 547 A1	07-12-2000	Kaneko SATORU et. al.		
	AP	WO 00/38583 A1	07-06-2000	J.G.E. THOMPSON et. al.		
	AQ	WO 00/32140 A1	06-08-2000	Michelle LANE et. al.		✓
	AR	WO 99/67365 A1	12-29-1999	Svend LINDENBERG et. al.		
	AS	WO 99/67364	12-29-1999	Sarah ROBERTSON et. al.		✓
	AT	WO 98/30676 A1	07-16-1998	Gabor VAJTA et. al.		

Examiner
SignatureDate
Considered

* EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹ Applicant's unique citation designation number (optional). ² See Kind Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.



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Complete if Known

Application Number	10/518,055
Filing Date	December 16, 2004
First Named Inventor	Svend LINDENBERG
Group Art Unit	Not Yet Known
Examiner Name	Not Yet Known
Attorney Docket Number	LINDENBERG=3

Sheet	2	of	2
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OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS

[illegible]

Examiner
Signature

Date
Considered

* EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached.